

Senate File 141 - Introduced

SENATE FILE 141

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A BILL FOR

1 An Act permitting the voluntary receipt by employees of payment
2 of wages by debit card or pay card and making penalties and
3 remedies applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 91A.3, subsection 3, Code 2017, is
2 amended to read as follows:

3 3. a. The wages paid under subsection 1 shall be paid using
4 a method authorized by this section.

5 b. Wages due may be paid at the employee's normal place of
6 employment during normal employment hours or at a place and
7 hour mutually agreed upon by the employer and employee, or the
8 employee may elect to have the wages sent for direct deposit,
9 on or by the regular payday of the employee, into a financial
10 institution designated by the employee.

11 c. Upon written request by the employee, wages due may be
12 sent to the employee by mail. The employer shall maintain a
13 copy of the request for as long as it is effective and for at
14 least two years thereafter.

15 d. The employee may elect to have wages due sent for
16 direct deposit, on or by the regular payday of the employee,
17 into a financial institution designated by the employee. An
18 employee hired on or after July 1, 2005, may be required, as
19 a condition of employment, to participate in direct deposit
20 of the employee's wages in a financial institution of the
21 employee's choice unless any of the following conditions exist:

22 (1) The costs to the employee of establishing and
23 maintaining an account for purposes of the direct deposit would
24 effectively reduce the employee's wages to a level below the
25 minimum wage provided under section 91D.1.

26 (2) The employee would incur fees charged to the employee's
27 account as a result of the direct deposit.

28 (3) The provisions of a collective bargaining agreement
29 mutually agreed upon by the employer and the employee
30 organization prohibit the employer from requiring an employee
31 to sign up for direct deposit as a condition of hire.

32 e. (1) An employer may offer payment of wages by debit
33 card or pay card pursuant to this section only if all of the
34 following requirements are met:

35 (a) The employee voluntarily agrees in writing to payment

1 by debit card or pay card after the employer offers to pay the
 2 employee's wages by debit card or pay card and notifies the
 3 employee in writing that receipt of payment by debit card or
 4 pay card is voluntary on the employee's part and listing the
 5 other method or methods of payment offered by the employer.

6 (b) The employee has the option of withdrawing all wages
 7 due once per pay period, but not more frequently than once per
 8 week, without incurring any charge, if such withdrawal of wages
 9 is conducted at a financial institution's office location. For
 10 purposes of this subparagraph division, "financial institution"
 11 means the same as defined in section 537.1301.

12 (c) The employee has the option to have the employee's name
 13 included on the debit card or pay card.

14 (2) The employer shall retain copies of the employee's
 15 written consent and the notice of charges for the period for
 16 which the consent is effective and for at least two years
 17 thereafter.

18 (3) The employer shall substitute another payment method
 19 in accordance with this section no later than two pay periods
 20 after receiving a request from an employee for termination of
 21 payment by debit card or pay card.

22 ~~b.~~ f. If the employer fails to pay an employee's wages on
 23 or by the regular payday in accordance with [this subsection](#),
 24 the employer is liable for the amount of any overdraft charge
 25 if the overdraft is created on the employee's account because
 26 of the employer's failure to pay the wages on or by the regular
 27 payday. The overdraft charges may be the basis for a claim
 28 under [section 91A.10](#) and for damages under [section 91A.8](#).

29 Sec. 2. Section 91A.6, subsection 4, Code 2017, is amended
 30 to read as follows:

31 4. On each regular payday, the employer shall send to
 32 each employee by mail or shall provide at the employee's
 33 normal place of employment during normal employment hours a
 34 statement showing the beginning and ending dates of the pay
 35 period to which the statement applies, the hours the employee

1 worked, the wages earned by the employee, and deductions made
 2 for the employee. However, the employer need not provide
 3 information on hours worked for employees who are exempt
 4 from overtime under the federal Fair Labor Standards Act,
 5 as defined in 29 C.F.R. pt. 541, unless the employer has
 6 established a policy or practice of paying to or on behalf
 7 of exempt employees overtime, a bonus, or a payment based on
 8 hours worked, whereupon the employer shall send or otherwise
 9 provide a statement to the exempt employees showing the hours
 10 the employee worked or the payments made to the employee
 11 by the employer, as applicable. An employer who provides
 12 each employee access to view an electronic statement of
 13 the employee's earnings and provides the employee free and
 14 unrestricted access to a printer to print the employee's
 15 statement of earnings, if the employee chooses, is in
 16 compliance with this subsection.

EXPLANATION

18 The inclusion of this explanation does not constitute agreement with
 19 the explanation's substance by the members of the general assembly.

20 This bill permits an employer to offer payment of wages by
 21 debit card or pay card under Code chapter 91A, the Iowa wage
 22 payment collection law, if certain requirements are met.

23 The employee must voluntarily agree in writing to payment
 24 by debit card or pay card after the employer offers to pay the
 25 employee's wages by debit card or pay card and notifies the
 26 employee in writing that receipt of payment by debit card or
 27 pay card is voluntary on the employee's part and listing the
 28 other method or methods of payment offered by the employer.
 29 The employee must have the option of withdrawing all wages due
 30 once per pay period, but not more frequently than once per
 31 week, without incurring any charge, if such withdrawal of wages
 32 is conducted at a financial institution's office location. The
 33 employee must also have the option to have the employee's name
 34 included on the debit card or pay card.

35 The bill requires an employer to retain copies of the

1 employee's written consent and the notice of charges for the
2 period for which the consent is effective and for at least two
3 years thereafter.

4 The bill requires an employer to substitute another payment
5 method in accordance with this Code section no later than two
6 pay periods after receiving a request from an employee for
7 termination of payment by debit card or pay card.

8 The bill provides that regular payday statements provided to
9 employees by employers must include the beginning and ending
10 dates of the pay period to which the statement applies.

11 Under Code chapter 91A, unpaid wages or expenses, along with
12 liquidated damages, court costs, and attorney fees, may be
13 recovered by the employee or the labor commissioner by civil
14 action. An employer who violates Code chapter 91A is also
15 subject to a civil penalty of not more than \$500 per pay period
16 for each violation.